## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

Case No. 5:21-CV-00183-M

LATONIA HARRIS,	)	
Plaintiff,	)	
v.	)	ORDER
RYAN D. MCCARTHY, Secretary of the Army,	)	
Defendant.	)	

This matter comes before the court on Plaintiff's Motion for Leave to File Amended Complaint [DE 37]. Rule 15 of the Federal Rules of Civil Procedure governs the amendment of pleadings and provides, in pertinent part, that a party may amend its pleading once as a matter of course within 21 days after service of a motion under Rule 12(b). Fed. R. Civ. P. 15(a)(1). In this case, Defendant acknowledges that Plaintiff filed her motion within the time set forth in Rule 15(a)(1). DE 41 ("Defendant has no objection to Plaintiff's motion for leave because the Federal Rules permit such a filing without leave of Court.") Therefore, the court DENIES AS MOOT the Plaintiff's motion and ORDERS that Plaintiff file the Amended Complaint—without the word "Proposed" in the title and properly signed and dated—on or before January 24, 2022.

In light of this order, Defendant's Motion to Dismiss the Plaintiff's Complaint [DE 12] is DENIED AS MOOT. See Fawzy v. Wauquiez Boats SNC, 873 F.3d 451, 455 (4th Cir. 2017)

<sup>&</sup>lt;sup>1</sup> The court extended Plaintiff's response deadline to September 20, 2021, Plaintiff filed her motion on September 20, 2021, then the court issued a notice of procedural deficiency and the Plaintiff re-filed the motion on September 22, 2021. DE 24, 29, 35, 37. The court finds Plaintiff's motion was filed within the time period set forth in Rule 15(a)(1).

("Because a properly filed amended complaint supersedes the original one and becomes the operative complaint in the case, it renders the original complaint 'of no effect.'") (citation omitted). Defendant shall file an answer or other response to the Amended Complaint (including to the extent that Defendant wishes to re-file (or "renew") its motion to dismiss) in accordance with Rule 15(a)(3).

SO ORDERED this 20th day of January, 2022.

CHIEF UNITED STATES DISTRICT JUDGE